THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11341 of_2004

Dated:20.09.2006

Between
S.V.S.K.Purnachandra Rao and another

…..Petitioners

and

1.The District Collector,
West Godavari, Eluru and others.

…Respondents

W.P.No.11345 of 2004

Between
P.V.Ch.Nageswara Rao

…Petitioner

and

1.The District Collector,
West Godavari, Eluru and others.

…Respondents

W.P.No.11342 of 2004

Between
Raja Sudhakara Rao

… Petitioner

and

1.The District Collector,
West Godavari, Eluru and others.

…Respondents

W.P.No.11342 of 2004

Between
Gurram Satyanarayana

…. Petitioner

and

1.The District Collector,
West Godavari, Eluru and others.

…Respondents

W.P.No.11344 of 2004

Between
D.Jaya Prakash

….. Petitioner

and

1.The District Collector,
West Godavari, Eluru and others.

…Respondents

W.P.No.11348 of 2004

Between
Katreddi Venkateswara Rao

… Petitioner

and

1.The District Collector,
West Godavari, Eluru and others.

…Respondents

W.P.No.11360 of 2004
Between
N.V.S.V.Prasada Rao

… Petitioner

and

1.The District Collector,
West Godavari, Eluru and others.

…Respondents

W.P.No.11361 of 2004

Between
Kanigolla Bhaskara Gurunadha Rao

… Petitioner

and

1.The District Collector,
West Godavari, Eluru and others.

…Respondents

W.P.No.11369 of 2004
Between
Vema Koteswara Rao and another

… Petitioners

and

1.The District Collector,
West Godavari, Eluru and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11341,11369,11361,11360,11348,11344,11343,11342 and 11345 of 2004

COMMON ORDER:

In all these writ petitions common questions of fact and law arise for consideration and hence they are disposed of by this common Order.

It appears that the stocks held by the petitioners were seized by the 3rd respondent. Thereafter, Section 6-A proceedings were issued confiscating the said stocks on the ground that the petitioners have violated the provisions of the A.P. Rice Procurement (Levy) Order, 1984 and also the A.P. Scheduled Commodities Dealers (L & D) Order 1982. Aggrieved by the same, the petitioners carried the matter in appeal under Section 6 (c) before the learned District & Sessions Judge, West godavari, Eluru. The learned District Judge, while allowing the said appeal in part, held as under:

> "The above said discussion has clearly revealed that, here is no bar for a miller or a wholesaler to purchase the same from the miller or wholesaler, but there is bar so far as the rice is concerned under clause 3 (c) of APRP (Levy) Order, 1984. The learned J.C has confiscated 100% of the stocks seized. When he has delivered 50% of the levy to the Govt. the confiscation of 100% is on the high side and violation is only purchase of stock from a miller or a wholesaler in violation of clause 3 (c) of A.P.R.P (Levy) Order 1984, and I feel that in the interest of justice that, the confiscating of 15% for violation of the said stock would

meet the ends of justice so far as the rice and broken rice are concerned. The impugned order with regard to confiscation of paddy is hereby set aside.

In the result, the appeal is allowed in part setting aside the confiscation order so far as the paddy is concerned and the rest of appeal with regard to the rice and broken rice is hereby dismissed, but the confiscated quantity is reduced to 15% in place of 100%."

Aggrieved by the same, the present writ petitions are filed.

Learned counsel for the petitioners strenuously contended that neither there is any violation of A.P.R.P (Levy) Order, 1984 nor any other provisions of any other law for the time being is in force. In fact, there is no restriction on movement of rice even as per the governmental orders. Further, the learned District Judge himself found that 50% of the levy was delivered by the petitioners. Therefore, confiscation of 100% or 15% of the stocks does not arise. Absolutely, there is no violation of Clause 3 (c) of A.P.R.P Order, 1984.

Learned Government Pleader while supporting the impugned order, stated that may be there is no bar for movement of rice from miller to the wholesaler or wholesaler to the miller and vice versa. But, nonetheless, the Clause 3 (c) of A.P.R.P. (Levy) Order is violated. The learned District Judge has rightly directed confiscation of 15% of the stocks and no case is made out for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

Once, there is no restriction on the movement of rice on the purchase/sale of the same from a miller or a wholesaler to another miller or wholesaler, the only question needs to be examined is as to whether there is any violation of levy order. It is unfortunate that the learned District Judge while taking note of the fact that 50% of the levy was delivered by the petitioners, upheld the order passed by the Joint Collector and directed confiscation of 15% of stocks. Clause 3 (c) of the A.P.R.P Order Reads as under:

> "Every licensed miller shall sell to the Food Corporation/State Corporation at the procurement price fifty percentage of the total quantity of,---
>
> Each variety of rice conforming to specifications purchased or otherwise acquired by him for the purpose of sale from persons other than a licensed miller or a licensed dealer."

Under the above clause, every licenced miller shall sell to the Food Corporation/State Corporation at the procurement price fifty percentage of the total quantity of each variety of rice conforming to the specifications purchased or otherwise acquired by him for the purpose of sale from persons other than the licensed miller or a licensed dealer. In this case, the learned District Judge, found that the petitioners delivered 50% of the levy to the Government. Once this so, there is no violation of Clause 3 (

c) of A.P.R.P (Levy) Order. Therefore, the impugned order passed by the Joint Collector as confirmed by the learned District Judge, is liable to be set aside.

In the result, the writ petitions are allowed and the impugned orders passed by the Joint Collector as confirmed by the District Judge are set aside. No costs.

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20-09-2006

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